

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

BILL MAX OVERTON,	:	NO. 1:11-CV-00158
	:	
Plaintiff,	:	
	:	
v.	:	<b>OPINION AND ORDER</b>
	:	
UNITED STATES OF AMERICA	:	
	:	
Defendant.	:	
	:	

This matter is before the Court on the Magistrate Judge's March 16, 2011 Report and Recommendation (doc. 2), and Petitioner's Objections (docs. 4, 5 & 6)). In her Report and Recommendation, the Magistrate Judge recommends that Plaintiff's motion for leave to proceed in forma pauperis be denied because Plaintiff failed to submit an affidavit in support thereof and failed to pay the filing fee. Further, the Magistrate Judge recommends that Plaintiff be given thirty days from the date of this Order to either pay the filing fee or submit the required affidavit and recommends that Plaintiff be advised that failure to pay the filing fee or file the affidavit within that time-frame would result in his matter being closed (doc. 2).

Plaintiff objects to the Magistrate Judge's Report and Recommendation on the basis that "the order was given by a magistrate and not by a judge" (doc. 4).

Plaintiff's objection is denied because, pursuant to 28 U.S.C. § 636 and the February 23, 2011 General Order of Assignment

and Reference, the Magistrate Judges of this district are empowered to issue reports and recommendations to the district court judges on all matters assigned to them by the district court judges, including all cases proceeding pro se as this one is. The district court then reviews the Magistrate Judge's report and recommendation and, under certain circumstances, conducts a de novo review of the matter. See 28 U.S.C. § 636.

Here, the Magistrate Judge issued her Report and Recommendation, and the Court has reviewed it and finds it to be well-reasoned and correct. Therefore, the Court adopts and affirms the Report and Recommendation in all respects. Accordingly, Plaintiff's motion to proceed in forma pauperis is denied; Plaintiff has thirty days from the entry of this Order to either pay the required filing fee of \$350.00 or to submit an affidavit showing that his income, assets and debts are such that he is unable to provide himself and his family with the necessities of life and still have sufficient funds to pay the full filing fee. Failure to pay the filing fee or to submit the required affidavit within those thirty days will result in Plaintiff's case being closed.

SO ORDERED.

Dated: April 13, 2011

/s/ S. Arthur Spiegel  
S. Arthur Spiegel  
United States Senior District Judge